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Attorneys for Defendant
CAL STATE 9 CREDIT UNION

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA - SAN FRANCISCO DIVISION

KAMLESH BANGA,

Plaintiff,

v.

CAL STATE 9 CREDIT UNION;
EQUIFAX INFORMATION SERVICES,
LLC, and Does 1 through 10 inclusive,

Defendants.

Case No. C08-03015 BZ

**DEFENDANT'S AMENDED NOTICE OF
MOTION AND MOTION TO
SUBSTITUTE PARTY; MEMORANDUM
OF POINTS AND AUTHORITIES IN
SUPPORT OF MOTION TO SUBSTITUTE
PARTY**

Date: October 17, 2008
Time: 9 a.m.
Dept.: Courtroom 7, 19th Floor
San Francisco
Judge: Maxine M. Chesney
United States District Judge

NOTICE OF MOTION AND MOTION TO SUBSTITUTE PARTY

TO PLAINTIFF KAMLESH BANGA:

PLEASE TAKE NOTICE that on October 17, 2008 at 9 a.m. in Courtroom 7 of the United States District Court, Northern District, San Francisco Division, located at 450 Golden Gate Avenue, San Francisco, California, or as soon thereafter as the matter may be heard, the National Credit Union Administration Board, in its capacity as the Liquidating Agent for Cal State 9 Credit Union, will move this Court for an Order granting its motion to substitute the National Credit Union Administration Board as the defendant in this case.

1 This motion is made and based upon this Notice, the Memorandum of Points and
 2 Authorities in support thereof, and the pleadings and any other documents on file, as well as any
 3 other evidence produced at the hearing of the matter.

4 MEMORANDUM OF POINTS AND AUTHORITIES

5 1. Plaintiff filed suit against Cal State 9 Credit Union (CS9CU) alleging that CS9CU
 6 violated the Fair Credit Reporting Act and other statutes.

7 2. Plaintiff seeks damages of \$150,000 as a result of the alleged actions of the credit
 8 union in this matter.

9 3. On June 30, 2008, Cal State 9 Credit Union was placed into involuntary
 10 liquidation, and the National Credit Union Administration Board (NCUA) was appointed
 11 Liquidating Agent of the credit union pursuant to the provisions of 12 U.S.C. §1787(a)(3). A
 12 copy of the Notice of Involuntary Liquidation is attached as Exhibit A.

13 4. By operation of law, the Liquidating Agent succeeds to all rights, titles, powers,
 14 and privileges of the credit union. *See* 12 U.S.C. §1787(b)(2)(A)(i). Pursuant to 12 U.S.C.
 15 §1789, the Liquidating Agent is empowered to be sued and defend in any court of law or equity.
 16 Accordingly, it is the proper entity for purposes of this lawsuit.

17 CONCLUSION

18 As CS9CU is no longer the proper entity to be sued in this matter, the National Credit
 19 Union Administration in its capacity as Liquidating Agent respectfully requests that it be
 20 substituted as a defendant in this matter.

21 Dated: August 28, 2008

LOMBARDI, LOPER & CONANT, LLP

23 By: /s/ Leora R. Ragonas
 24 LEORA R. RAGONES
 25 Attorneys for Defendant
 26 CAL STATE 9 CREDIT UNION
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PROOF OF SERVICE

Kamlesh Banga v. Cal State 9 Credit Union, et al.

United States District Court, Northern District Case No.: 3:08-cv-03015 MMC

I, Noelle Duncan, do hereby declare:

I am a citizen of the United States, over 18 years of age and not a party to the within action. I am employed in the County of Alameda; my business address is 1999 Harrison Street, Suite 2600, Oakland, CA 94612.

On August 28, 2008, I served the within:

DEFENDANT'S AMENDED NOTICE OF MOTION AND MOTION TO SUBSTITUTE PARTY; MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF MOTION TO SUBSTITUTE PARTY

on all parties in this action, as addressed below, by causing a true copy thereof to be distributed as follows:

Kamlesh Banga
P.O. Box 6025
Vallejo, CA 94591

Telephone: (707) 342-1692
Facsimile:
Plaintiff in Propria Persona

Thomas P. Quinn
Nokes & Quinn
450 Ocean Avenue
Laguna Beach, CA 92651

Telephone: (949) 376-3055
Facsimile: (949) 376-3070
Attorneys for Defendant
Equifax Information Services LLC

☒ **By United States Mail:** I enclosed the document in a sealed envelope or package addressed to the persons at the addresses listed above and placed the envelope/package for collection and mailing, following our ordinary business practices. I am readily familiar with this business's practice for collecting and processing documents for mailing. On the same day that the document is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after the date of deposit for mailing an affidavit.

I am a resident or employed in the county where the mailing occurred. The envelope or package was placed in the mail at Oakland, California.

☐ **By Fax Transmission:** Based on an agreement of the parties to accept service by fax transmission, I faxed the documents to the persons at the fax numbers listed above. No error was reported by the fax machine that I used. A copy of the record of the fax transmission, which I printed out, is attached.

☐ **By Overnight Delivery:** I enclosed the documents in an envelope or package provided by an overnight delivery carrier and addressed to the persons at the addresses listed above. I placed the envelope or package for collection and overnight delivery at an office or a regularly utilized drop box of the overnight delivery carrier.

☐ **By Personal Service:** I personally delivered the documents to the persons at the addresses listed above. (1) For a party represented by an attorney, delivery was made to the attorney or at the attorney's office by leaving the documents in an envelope or package clearly labeled to identify the attorney being served with the receptionist or an individual in charge of the office. (2) For a party, delivery was made to the party or by leaving the documents at the party's residence with some person not less than 18 years of age between the hours of eight in the morning and six in the evening.

- 1 ☐ **By Messenger Service:** I served the documents by placing them in an envelope or package
2 addressed to the persons at the addresses listed above and providing them to a professional messenger service
3 for service. *(A declaration by the messenger must accompany this Proof of Service.)*
- 4 ☐ **By E-Mail or Electronic Transmission:** Based on a court order or an agreement of the parties
5 to accept service by email or electronic transmission, I caused the documents to be sent to the persons at the e-
6 mail addresses listed above. I did not receive, within a reasonable time after the transmission, any electronic
7 message or other indication that the transmission was unsuccessful.

8 I declare under penalty of perjury under the laws of the United States of America that the
9 foregoing is true and correct.

10 Executed on August 28, 2008, at Oakland, California.

11 _____
12 /s/ Noelle Duncan
13 Noelle Duncan
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